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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,617	06/30/2000	Scott D Smyers	SONY-12100	9459
28960 7590 11/01/2007 HAVERSTOCK & OWENS LLP 162 N WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER FILIPCZYK, MARCIN R	
			ART UNIT 2163	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/608,617
Filing Date: June 30, 2000
Appellant(s): SMYERS ET AL.

MAILED

NOV 01 2007

Technology Center 2100

Sony Corporation
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 23, 2007 appealing from the Office action mailed March 28, 2007.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,675,177

Webb

January 6, 2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19-23 and 53 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth whether the invention accomplishes a practical application and whether it generates a useful, concrete and tangible result.

The guidelines explain that a practical application of a 35 U.S.C. 101 judicial exception is claimed if the claimed invention physically transforms an article or physical object to a different state or thing, or if the claimed invention otherwise produces a useful, concrete, and tangible result.

In the present case, independent claims 19 and 53 do not involve transformation of article or physical object to a different state or thing, they merely recite a meta data header. Further, independent claims 19 and 53 do not produce a useful, concrete, and tangible result, but merely disclose a meta data header without generating a useful, concrete and tangible result. State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02.

Claims 19 and 53 taken as a whole are directed to a mere medium claim, i.e., to only its description or expression, is an abstract idea and does not comprise a practical application as explained above hence are nonstatutory.

Since the claimed invention, as a whole, does not comprise a practical application as explained above, claims 20-23 which depend from claim 19 respectively, are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-15, 19-35 and 44-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Webb (U.S. Patent No. 6,675,177).

Regarding claim 1, Webb discloses a method and system of writing data to a media storage device comprising: (abstract and figs. 1-3)

receiving a received packet of data to be written to the media storage device, the received packet of data including a packet header; (figs. 1-3, col. 7, lines 7-9 and related text)

adding a metadata header to the received packet of data at the media storage device thereby forming an extended packet of data including both the packet header and the meta data header (figs. 3 and 7-9, item 10, col. 6, lines 27-30, *merge* and col. 7, lines 9-26), wherein the packet is an isochronous packet of data (abstract);

(Note: IEEE 1394-1995 is an international standard for implementing isochronous and asynchronous format data transfers in a network, see Background of Invention of the Instant Application)

storing the extended packet of data onto a media within the media storage device (figs. 3 and 7-9, item 10, col. 6, lines 27-30, *merge* and col. 7, lines 9-26).

Regarding claim 2, Webb discloses a cycle control to locate cycle boundaries and controlling number of a cycle in which the received packet of data was received (col. 3, lines 9-13 and col. 4, lines 1-8).

Regarding claim 3, Webb discloses received packet of data is an isochronous packet of data received over isochronous channels (figs. 1-3, network).

Regarding claims 4 and 5, Webb discloses adding a header to the received packet of data is performed by an embedded stream processor within a storage device (figs. 1-3, server/cache/tape, also see *additional meta data* on fig. 9).

Regarding claim 6, Webb discloses the network complies with IEEE 1394 standard (see abstract, and figs. 1-3, *network* and col. 15, lines 55-58).

Regarding claim 7, hard disk is inherent from a storage device.

Regarding claims 8-15, 19-35 and 44-54 contain the same subject matter as claims 1-7 and therefore are rejected on the same ground. In addition, regarding Isochronous Headers refer to fig. 9, *Additional Meta Data* and figs. 1-3, and regarding deleting or flushing headers and data refer to col. 7, lines 16-26 of Webb.

(10) Response to Argument

--As per Appellant's arguments regarding claims 19 and 53 that "a computer readable medium used within a media storage device produces a useful, concrete and tangible result by enabling real-time playback of time sensitive data stored on the computer readable medium through use of timing information stored in the meta data header...", Examiner disagrees.

Regarding claims 19-23 and 53, they are geared towards a system claim by including a computer readable medium comprising a storage device in the preamble; however, no hardware elements are claimed or suggested in the body of the claims which requires the Examiner to interpret the claims as method claims. The claimed limitations do not generate a useful, concrete and tangible result but instead claim a metadata header. It is further noted that the features upon which Appellant relies (i.e., result by enabling real-time playback of time sensitive data stored) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As rejected and explained above, the claims argued are not statutory.

--As per Appellant's arguments regarding independent claims 1, 19, 24, 30, 44 and 50-54 that "Webb does not teach adding a meta data header to the received packet of data at the media storage device", Examiner disagrees. Appellant further argues that "Webb does not teach the backup server receiving a data file from the client without the client first transmitting a meta data header preceding the data file". Examiner disagrees.

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Webb teaches that a file stream is a file that contains a series of file stream entries and ends in a special end of stream entry [col. 7, lines 5-7], to indicate that is a packet of data. A file stream entry comprises a header, file data and a footer [col. 7, lines 7-9]. A computer system sends the file(s) to a backup server in a file stream [col. 3, lines 9-12]. Having unique identifiers for every file within the file stream, the files may be transmitted in any order to the backup server [col. 7, lines 12-15]. The backup server is equivalent to the claimed media storage device because both server and media storage device store files. Hence, Webb teaches a received packet of data comprising a file and a header in a media storage device as seen in figures 1-3.

Webb further teaches adding a metadata header to the received packet of data by merging files modified since the last full backup with the presently residing files at the backup server including a new meta file [fig. 3, *merge* and col. 3, lines 58-65] as illustrated by figures 21A and 21B, specifically items 162, 156, 158, 166 and 174. Note a meta file includes a meta header and meta entry for each file [col. 7, lines 5]. Hence, Webb teaches adding a meta data header to the received packet of data including a packet header at the media storage device. Webb in fig. 21B, items 168 to 184 further shows writing meta data to the new cache file.

--As per Appellant's arguments regarding claim 8 that "Webb does not teach stripping first header data from the previously stored packet at the media storage device and transmitting the retrieved packet of data to another device", Examiner disagrees.

Webb teaches adding a meta data header to the received packet of data including a packet header at the media storage device as explained above [fig. 3, *merge* and col. 3, lines 58-65].

When data is modified and the backup server is updated the data including a header comprising

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for example a file size [fig. 12, item 80] is modified and some data is flushed or deleted and thereafter the packet of data is transmitted to a client system [figs. 20-30, *flush backup* or *merge*, and col. 7, lines 16-26].

With respect to all the pending claims 1-15, 19-35 and 44-54, Examiner respectfully traverses Appellant's assertion based on the discussion above with respect to claims 1, 8, 19, 24, 30, 44 and 50-54, and claims 2-7, 9-15, 20-23, 25-29, 31-35 and 45-49 which depend from 1, 8, 19, 24, 30 and 44, respectively.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Marcin Filipczyk

10/25/2007

Patent Examiner (AU 2163)

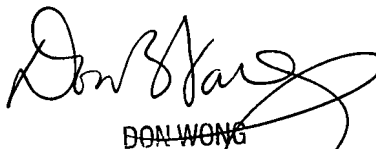
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